



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 5036-99

20 July 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board was unable to obtain your service record and conducted its review based on the documentation you submitted.

The available documentation shows that you enlisted in the Navy on 12 January 1981 at age 22. In June and July 1983 you received nonjudicial punishment (NJP) on three occasions. Your offenses were two short periods of unauthorized and three instances of disobedience. In addition you were convicted by civil authorities of reckless driving and driving on a suspended license. On 10 September 1983 you received your fourth NJP. Although there is nothing in the documentation you submitted concerning the offense you committed, it appears that you received the NJP for use of a controlled substance. On 16 October 1983 you received your fifth NJP for possession of alcoholic beverages aboard ship.

The documentation to support discharge processing is not in the material you submitted. However, that documentation does show that you were processed for discharge due to your use of a controlled substance, and were discharged under other than honorable conditions for that reason on 28 October 1983.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your initial period of good service and the contention that you were told that the discharge would automatically be recharacterized after six months. The Board also considered your contentions, in effect, that most of your offenses were very minor, such as a 90 minute unauthorized absence, and you were treated more harshly than others who committed similar offenses. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your use of a controlled substance and other misconduct. There is no provision in the law or regulations which would allow recharacterization of a discharge based solely on the passage of a period of time. Additionally, there is no evidence in the record, and you have submitted none, to show that you were treated differently than others with a similar record. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director